No. 12,531

IN THE

United States Court of Appeals

For the Ninth Circuit

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Appellant,

vs.

BERTHA LEE PORTER, Special Administratrix of the Estate of CHARLES E. PORTER, deceased,

Appellee.

Petition for Rehearing

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SUBJECT INDEX

TABLE OF AUTHORITIES CITED

TEXTS

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To The Honorable Justices of The United States Court of Appeals, for the Ninth Circuit:

The Appellant, State Farm Mutual Automobile Insurance Company, respectfully petitions for a rehearing on the following grounds:

FACTS INVOLVED

The Court has affirmed a judgment against the insurance company. The action was on an insurance policy of

Wilbur Mehlin's. Coverage on the driver of Mehlin's car was denied by the company. The questions involved were whether the company had waived or been estopped to assert policy defenses and whether the driver, Claggett, had Mehlin's permission to drive the car at the time and place of the accident.

BASIS FOR THE AFFIRMANCE

The Court, much to appellant's astonishment, has decided the case on a basis contrary to the opinion given by the trial judge. Despite the expressed opinion of the Honorable Trial Judge that there was no evidence of permission given by Mehlin to Claggett, this Court has ruled that there was evidence of sufficient weight to warrant a finding that permission was granted.

The Trial Court, in ruling against a motion for judgment notwithstanding the verdict, felt that waiver or estoppel had been established. This Court has not passed upon that aspect of the case at all. No one can tell whether the *jury* decided the case on the question of permissive use or on the basis of waiver and estoppel.

If, as a matter of law, there could be no finding of waiver or estoppel as a basis of coverage, then it would have been error for the trial court to have submitted those issues to the jury. Consequently, appellant is entitled to have this court pass on the question of waiver and estoppel as long as the Court feels that the jury could have found that permission was given. Appellant's case to the jury was prejudiced by the submission to them of questions upon which they could not legally predicate a verdict. The prejudice was brought into clear focus as soon as this Honorable Court ruled that the jury *could have* based its

finding on evidence of permission, even though the jury *might have* based its finding on the proposition of waiver or estoppel.

THE OPINION OF THIS HONORABLE COURT IS CONTRARY TO CALIFORNIA DECISIONS, CONTRARY TO A DECISION OF THE UNITED STATES SUPREME COURT, AND AGAINST SOUND REASONING. THE OPINION WILL HAVE FAR-REACHING AND UNDESIRABLE EFFECTS.

A. The Admission Contained in a Superseded Pleading Filed by Claggett's Attorney in the State Court Was Not Evidence That Could Be Used to Establish Permission.

This Court, in holding that the original answer could be used as evidence of the fact of permission (even though the answer had been amended to change an admission to a denial of permission), has gone counter to the established California rule and against the better reasoned decisions.

It is important to get a proper perspective of the evidence in this case in order to appreciate the enormity of the Court's ruling. The burden of proof that permission had been given was upon appellee; yet appellee offered *no direct evidence* that permission had been given. In addition, the positive and direct evidence was all to the contrary. Further than that, the direct evidence showed that the admission in the answer was made under a proved and previously established mistake as to the facts. We say "previously established" because the State Court had ruled that the answer could be amended on the showing made that there was a misapprehension concerning the true facts. The finding of the State Court is binding and conclusive. It is all the more conclusive when one considers that amendments to pleadings which change

an express admission to an express denial of a material fact are not allowed unless there is evidence that the party was "deceived or misled, or that his pleading was put in under a clear mistake as to the facts." *Tognazzi v. Wilhelm,* 6 Cal. (2d) 123 at 127.

The opinion of this Court seeks to distinguish the California cases of *Kambourian v. Gray,* 81 C.A. (2d) 783; *Gajanich v. Gregory,* 116 C.A. 622; *Weissbaum v. Eibeshutz,* 211 Cal. 170, and *Mecham v. McKay,* 37 Cal. 154 on the ground that a different rule prevails in cases where it is attempted to use a superseded pleading in the *same* case. Reference is then made to the case of *Coward v. Clanton,* 79 Cal. 23, 21 Pac. 359 where the use of a former pleading was allowed in a *different* case.

In the first place, we do not feel that there is any valid basis for a distinction to be drawn between the use of pleadings from the same case and from different cases. Indeed, this Court has stated that its decisions do not recognize any distinction (note 10, page 9, of the Opinion).

The real question is, how far does *Coward v. Clanton* go in allowing use of a *superseded* pleading to prove an admission of a fact? Does that case establish a broad and accepted rule allowing such proof? We believe not. It is important to note that in *Coward v. Clanton* from all that appears in the decision, the claim was made in the *second* cause between the parties that the prior answer was "superseded by the filing of another answer in *this* case." (Emphasis ours). It does not appear that the so-called superseded pleading in the previous action had been *amended* to change an admission to a denial upon proper showing of mistake and inadvertence. We respectfully submit that this Court has misread the purport of the

Coward case, and that the Coward case does not go as far in its holding as the opinion of this Court says it does.

The important difference should be noted in cases when the original pleading is merely *superseded* by another pleading which merely omits the prior statement, and one such as ours where the original pleading is *amended* in the same case in order to change an admission to a denial.

We start with *Mecham v. McKay,* 37 Cal. 154, wherein the California Supreme Court says:

> "It has doubtless often happened that a pleading contains admissions made under a misapprehension of the facts. In such cases, if the party amends his pleading, stating the facts differently, he would reap no benefit from his amendment, if the adverse party were at liberty to use the first pleading as an admission to overthrow the amended pleading. It cannot be a sound rule of evidence which works such results and practically puts it out of the power of a party to avoid the effect of a mistake in the original pleading."

We feel that the reasoning and same rule has been continually followed in California down to the present time. We feel that the rule is not to be applied differently in cases involving different lawsuits.

This Honorable Court has expressed the view that the standing of *Mecham v. McKay* has been put in question by the cases of *Miller v. Lee,* 66 C.A. (2d) 778; *Traeger v. Friedman,* 79 C.A. (2d) 151, and *Caccamo v. Swanston,* 94 C.A. (2d) 957. Not one of these cases mentions *Mecham v. McKay.* Not one of these cases involved the case of a superseded pleading that had been changed from an admission to a denial after a proper showing of mistake.

In quoting *Coward v. Clanton,* 79 Cal. 23, the footnote to this court's opinion states that the following cases are in accord: *Tieman v. Red Top Cab Co.,* 117 C.A. 40, 3 Pac. (2d) 381; *Dolinar v. Pedone,* 63 Cal. App. (2d) 169, 146 Pac. (2d) 237; *Brooks v. Brooks,* 63 Cal. App. (2d) 671, 147 Pac. (2d) 417; *Jones v. Tierney-Sinclair,* 71 Cal. App. (2d) 366, 162 Pac. (2d) 669; *McNeil v. Dow,* 89 Cal. App. (2d) 370, 200 Pac. (2d) 859.

In *Tieman v. Red Top* no reference is made to *Coward v. Clanton.* No superseded pleading was involved.

In *Dolinar v. Pedone* no superseded pleading was involved. There was a mere lack of denial of an allegation in a former action.

In *Brooks v. Brooks,* no amended pleading was involved. There was a mere conflict between present and prior allegations.

In *Jones v. Tierney,* an admission in a former pleading had not been superseded by amendment.

In *McNeil v. Dow* the admissions in a former pleading had never been changed by amendment. No superseded pleading was involved.

It can be seen therefore that neither *Coward v. Clanton* nor any of the other cases referred to by this Court in its opinion can be regarded as authority for the proposition that a pleading which has been *changed* by amendment in a former proceeding can be used as an admission in a subsequent action. This is particularly true when the change is allowed by the other tribunal to permit the destruction of the admission and set up a denial of it. Such a ruling cannot be collaterally attacked. Nor can any of the decisions referred to in this Court's opinion be re-

garded as authority for making a distinction between the *same* and *different* cases.*

Wigmore's appraisal of *Coward v. Clanton* is that the language therein is dicta. (Wigmore, 3rd Edition, Sec. 1066, Note 2.) As a matter of fact, Wigmore recognizes California as one of the jurisdictions which "excludes all common law pleadings filed in other causes." (3rd Edition, Section 1066, Note 2.)

Let us examine some California cases on the subject. Take for instance, *Ralph v. Hensler,* 114 Cal. 196, which holds that an admission is withdrawn by the amended pleading in the following language:

> "This contention of appellant must be sustained. It was early held in the case of *Mecham v. McKay,* 37 Cal. 154, that an original pleading containing an admission against interest, which original pleading had been superseded by an amended pleading, could not be admitted in evidence against the pleader, and it was said: 'If the party amends his pleading stating the facts differently he would reap no benefit from his amendment, if the adverse party were at liberty to use the first pleading as an admission to overthrow the amended pleading.' This case has frequently been followed. (*Ponce v. McElvy,* 51 Cal. 222; *Pfister v. Wade,* 69 Cal. 133; *Wheeler v. West,* 71 Cal. 126.) Under the rule as thus laid down defendants' answer containing the admissions amounting to a ratifica-

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*The only reason for making a distinction would lie in the fact that in the same case a change has been made and the superseded pleading has been eliminated, destroyed. In different proceedings, the pleading in the former action still exists as a valid pleading. It has not been changed. The allegation relied on still stands as a part of a valid subsisting pleading. In our case the former pleading has been nullified by an amended pleading *in the same case*—the State Court proceeding.

tion was superseded and ceased to be a subsisting pleading. Its declarations could not have been received or considered by the court."

In *Miles v. Woodward,* 115 Cal. 308, sound reasoning is applied as follows:

"5. Defendant's original answer had been superseded by an amended pleading. Over defendant's objections portions of his original answer containing admissions were admitted. This was error. (*Mecham v. McKay,* 37 Cal. 154; *Ralphs v. Hensler*, 114 Cal. 196.)"

To illustrate how the California Courts feel about permitting a superseded pleading (one actually amended) to be used as an admission and to point up the rather far reaching effect this Court's present opinion will have on future practice, we wish to quote to this Honorable Court from *Jackson v. P. G. & E.*, 95 C.A. (2d) 204:

"The province and purpose of the law is to ascertain the real facts and to administer justice in the light of such facts. It would seem to be a travesty on justice if a litigant had inadvertently, ignorantly and erroneously stated as a fact, without fault on his part, an admission against interest, if he were to become bound thereby and would not be permitted upon proper showing to correct the innocent error and assert the true fact in that regard. We do not concede that is the law. It has been held that when an original pleading contained an admission against interest, the filing of an amended pleading superseded the original one and that the original pleading could not be used as evidence or be considered by the court. (*Ralphs v. Hensler,* 114 Cal. 196 (45 P. 1062); *Miles v. Woodward,* 115 Cal. 308, 316 (46 P. 1076); 49 C.J. Sec. 773, P. 558; 41 Am. Jur. Sec. 313, p. 507.)"

"We think the correct rule with respect to reference to former pleadings which have been substituted by amended pleadings filed by leave of court is that the abandoned and substituted pleadings may be considered only for certain limited purposes, but not to bind the pleader to an untrue and erroneous admission against interest which was inadvertently contained therein, but which has been subsequently disavowed and corrected in an amended pleading filed by leave of court, in which, or accompanying which, satisfactory explanation is made of the reason which caused the original erroneous statement. Otherwise, it would be useless and futile to correct an innocent mistake of fact by stating the truth with respect thereto and explaining the cause of the erroneous statement. The primary function of our courts of justice is to ascertain the truth and real facts of a case and to administer justice accordingly. If courts were to bind litigants to inadvertent untrue statements of facts and forbid them the inherent right to correct the false by substituting the true facts, they would become partisans to miscarriages of justice. Our courts not only permit, but strive to elicit, the true facts of all cases, and to render justice by applying the law to such facts. That is the purpose and spirit of the provisions of section 473 of the Code of Civil Procedure, which reads in part:

> 'The Court may, in furtherance of justice, ... allow a party to amend any pleading by correcting a mistake in the name of a party, *or a mistake in any other respect;* . . . .' (Emphasis added.)"

See also *Kerver v. Virginia Chem.,* 145 F. 288 at 290; *Bueham v. Smelker,* 68 Pac. (2d) 946 at 949.

B. The Statement of Claim Adjuster Gripenstraw to Appellee's Attorney Could Not Be Relied Upon as a Binding Admission of the Fact of Permission.

As has been previously indicated, the conversation was *admissible* for another purpose.

Analysis of what was allegedly said by Gripenstraw shows that the *fact* of permission was not even admitted. His statement to Castro was *not* to the effect that Mehlin gave Claggett permission to operate the car. Careful scrutiny of the language quoted shows that he admitted only that there was "no question" about the permission. (Tr. pp. 86-87.) Next he purportedly said: "We are satisfied that *Mrs.* Mehlin had the permission to bring the automobile out here and that Mr. Claggett had *her* permission to use it" (Tr. pp. 86-87). It should be noted that there is no admission in such language that Claggett had *Mr.* Mehlin's permission. Indeed, all that is admitted is the fact that "we are satisfied" about the subject of permission. As long as the law regards verbal admissions with suspicion, with caution and as the weakest kind of evidence, the law should likewise strictly construe the language against the interested person who recites it from memory.

As a further basis for rejecting the statement of Gripenstraw as proof of the existence of a *fact,* we believe that the same reasoning used concerning superseded and amended pleadings is sound in its application to Gripenstraw's statements made under an obvious and uncontradicted misapprehension of facts.

Let us assume for the moment, without conceding, that Gripenstraw's statement went far enough to be evidence of a purported fact that Mr. Mehlin had previously given

permission to Claggett to operate the car. This Court has asserted that Gripenstraw had authority to make such an admission and could thereby bind the insurance company. We are somewhat alarmed at the broad implications to be drawn from the Court's statement that "a claim adjuster is not a person without implied power to talk. Talking is one of the things he is expected to do." Is it to be assumed, therefore, that such an adjuster can bind his principals by anything he says and with admissions of non-existent facts. An adjuster can talk, but he cannot "run off at the mouth." There are certain limitations on what a claims adjuster can do or say and thereby bind the company. Was not the burden of proving the extent of his authority placed directly on appellee before she could rely on his statements as binding admissions? No proof was offered by appellee other than the bare relation of conversations between Gripenstraw and appellee's attorney. Included in a discussion of settlement could be inferred, says this Court, the power to discuss permissive use. Does power to discuss include power to bind by admissions? If an adjuster attempted to advise a claimant of his legal rights or to state that there was or was not permissive use he would be accused of the illegal practice of the law. Whether or not permissive use existed was a *conclusion* to be drawn from facts. Even Courts and lawyers find this difficult at times.

Could Gripenstraw by his conversation bind Mehlin, the Company's named insured? Suppose we carried it a step further. Despite Mr. Castro's purported statement to Gripenstraw that there were only the issues of negligence and permission, there was in fact a third issue—agency. Suppose Mr. Gripenstraw had also said that there was no

question about the existence of agency and scope of authority. Could he thereby saddle the named assured and the company with full liability—although contrary to the fact? Is not the authority of Gripenstraw to bind anyone limited by the authority of the insurance company to bind or to involve its named insured? *If the insurance company could not itself do it, how could Gripenstraw do it?* The Company was acting on behalf of Mr. Mehlin, its insured, to protect his interests. Its obligation was to defend or to settle. At the time Gripenstraw was "talking" he was not representing the interests of the company on a *policy* question. His authority therefore was not delegated to him for any other purpose and his right to bind was then, at that time, only with reference to dealing on behalf of the insured. No policy coverage discussion was involved.

It is stated in the opinion that secret limitations on an agent's authority are of no avail. We are not concerned with such a problem in this case. The question is primarily one of complete lack of proof as to the extent of the agent's authority. One cannot state that a power has been restricted until one knows the extent of the power. To say that the power to offer money includes the power to bind the company by admissions of facts not within the personal knowledge of the agent is about as logical as saying that proof that Claggett was driving Mehlin's car is enough to establish that he was doing so with Mehlin's permission.

The opinion says: "When he was made a claim adjuster, he was given a character commensurate with that type of occupation and would have all of the apparent powers usually attaching to an agent of that type." But we must

ask, where is there *any* evidence in this case to show the "character" of a claims adjuster or to show what powers "usually" attach to an agent of that type. Appellant offered the only evidence on that subject and it was clearly a limited authority. Mere talk by the agent himself cannot define the limits of his authority. See *Packet Company v. Clough,* 22 L. Ed. 406, *B & O v. Post,* 15 Atl. 885.

The very nature of the statement attributed to Gripenstraw made it inadmissible and not binding on the insurance company. The opinion of this Court, as it now stands, is contrary to California law and to a United States Supreme Court decision. It is apparent that Gripenstraw was making declarations concerning a past transaction at which he had not been present. He was attempting to characterize the effect of past conduct as amounting to permissive use under the California ownership liability statute. Such statements are not binding on the principal.

In *Borland v. Nevada Bank,* 99 Cal. 89 at 94, the Supreme Court of California held that an agent could not bind his principal by later characterizations of a transaction as "a purchase." The court said:

> "The testimony of Grayson that at some time subsequent to the transfer of the stock Flood spoke of the transaction as a 'purchase,' cannot be used to determine the nature of the transfer. Flood, as the agent of the defendant, could not bind it by any admissions or declarations respecting the character of the transaction, which he might subsequently make in reference thereto. (*Beasley v. San Jose Fruit Packing Co.,* 92 Cal. 388.)"

Also, in *Taylor v. Bernheim,* 58 C.A. 404, 209 Pac. 55, it was held that an agent could not, after the transaction, admit away the rights of his principal.

In *Wilbur v. Emergency Hospital,* 27 C.A. 751, the Court states the California rule as follows:

> "Over defendants' objection, Mrs. Rosmer was permitted to testify that Miss Brown, the matron in charge of the nurses and an employee of the Emergency Hospital Association, instructed her not to tell Mrs. Wilbur about her son having drunk the bichloride of mercury. This was error and well calculated to prejudice defendants in the minds of the jurors. Not only was it in the nature of hearsay, but the suggestion made by Miss Brown in no wise tended to prove the issue as to whether or not Wilbur had drunk the solution. Moreover, it was a declaration concerning a past transaction as to which Miss Brown is not shown to have had any personal knowledge. 'The opinion of an agent, based upon past occurrences, is never to be received as an admission of his principals; and this is doubly true where the agent was not a party to those occurrences.' (*Insurance Co. v. Mahone,* 21 Wall. 157, (22 L. Ed. 593).) In *Beasley v. San Jose Fruit-Packing Co.,* 92 Cal. 388, (28 Pac. 485), it is said: 'The declarations of an agent or servant do not, in general, bind the principal. To be admissible, they must be in the nature of original, and not of hearsay evidence.'"

The United States Supreme Court has clearly stated the rule in *American Life Ins. Co. v. Mahone,* 22 L. Ed. 593. In that case a general traveling agent and supervisor of the insurance company expressed the opinion that the claim should be paid and that it would be best for the company to accept the situation and pay the amount of the policy. The Court said:

> "That such an opinion allowed to go to the jury must have been very hurtful to the defendant's case is

manifest, and that it was inadmissible is equally clear. The opinion of an agent, based upon past occurrences, is never to be received as an admission of his principals; and this is doubly true when the agent was not a party to those occurrences."

Another valid reason for denying any weight to Gripenstraw's alleged admission is the rule mentioned by Wigmore, Third Edition, Vol. IV, page 17, Section 1055, where it is said:

"But when the admission concerns the main controverted fact in the case, and the opponent's admission is the only evidence offered, a few courts show an inclination to follow a general maxim that it is insufficient, at least, when the admission is one of conduct only."

It will be recalled that in our case *no direct evidence of permission was offered by appellee.* The only direct evidence on the subject was produced by appellant. Appellant's evidence negatived, without contradiction, any permission.

This Court's feeling that a jury could have drawn different conclusions because of the Mehlins' possible motive for telling falsehoods flies directly in the face of the California Supreme Court decision of *Engstrom v. Auburn Motors,* 11 Cal. (2d) 64. Regardless of the rather tenuous suggestions for having a jury draw contrary inferences, the rule suggested by Wigmore has particular application to our case.

In *Berewicz v. Haglin,* 115 N.W. 271, after quoting Wigmore, it was said:

"An admission not based on personal knowledge may be admissible. (Citing cases) But an admission evi-

dently made without personal knowledge of the facts admitted, or a statement inconsistent and contradictory, indefinite or equivocal, and *not elucidated by further proof,* may have little or *no* weight as evidence. (Citing cases) An admission of a mere legal conclusion is not binding.

* * * * * * * *

"In so far as the admission concerned facts, they were not within the defendant's personal knowledge. In so far as the admission concerned law, it cannot be determined whether the opinion was or was not erroneous."

Similarly, in our case, the opinion as to permission was "a mere legal conclusion" and not binding.

A case closely analogous to ours is *Jones v. Harris,* 210 Pac. 22 (Wash.). There a conversation related to an admission that the driver to whom a car was entrusted had been a known reckless driver. There was also an admission of permissive use. There was no direct evidence offered to back up the alleged admissions. Other evidence offered was direct evidence contradicting the admissions. The direct evidence was subject to the same conflicting inferences as were suggested by this Court in its opinion. Also, in the Jones case, "It was urged that the admissions alone were sufficient to carry the case to the jury." The Washington Court held that the admissions were not sufficient. After quoting Greenleaf and Jones on Evidence and *Stephens v. Vroman,* 18 Barb. (N. Y.) 250, re such admissions, the Court said:

"They (admissions) are not by any means conclusive, and not necessarily even prima facie evidence of the fact to which they relate. . . . . An examination

of the cases on the question collected in 22 C.J. 290, et seq., will show that the courts themselves, when they have been the trier of the facts, have generally refused to give such evidence credence when contradicted and *unsupported by any corroborating circumstance, and this even where the witness testifying was not a party to the cause,* and otherwise had no apparent reason for misinterpreting or misstating the admissions to which he testified. . . . . Mr. Harris is made by the purported admissions to state as a fact matters which he then knew not to be a fact, and matters which the evidence subsequently developed not to be a fact. . . . . It cannot be said to rise to the dignity of evidence; if it were otherwise, the citizen's right of personal liberty and right of private property stands upon a very shadowy foundation."

Even if the warrant for arrest issued *before the accident* is not convincing, and even if the sworn testimony of Mrs. Mehlin is disbelieved (despite the fact she could not be held liable either as owner or as principal), such evidence is direct and contrary to any inferences of permission. Take it all away, and there is still no evidence of permission.

This court indulges in some rare speculations in footnote 13 at page 15. Without any evidence to support it, the thought is expressed that probably Mrs. Mehlin was to be permitted to drive the car back to Nebraska while in custody of her mother. The mother was *not* deputized by Mr. Mehlin (Tr. 142). The car was later wrecked and was not in a condition to be driven (Tr. p. 132). The supposed permission to drive home *after* the accident

would have no bearing on the extent of any permission to drive away from home with strange men *before* the accident.

Not only must there be *proof* of permission, it must not be speculative. *Wilbur v. Emergency Hospital,* 27 C.A. 751 at 759.

> "A theory cannot be said to be established by circumstantial evidence, even in a civil action, unless the facts relied upon are of such nature and so related to each other that it is the only conclusion that can fairly or reasonably be drawn from them. It is not sufficient that they be consistent merely with that theory, for that may be true and yet they may have no tendency to prove the theory . . . . If other conclusions may reasonably be drawn as to the cause of the injury from the facts in evidence than those contended for, the evidence does not support the conclusion sought to be drawn from it. Verdicts must have evidence to support them, and the jury will not be permitted merely to conjecture how the accident occurred. In matters of proof they are not justified in inferring from mere possibility the existence of facts. If it appears that the facts and circumstances from which a conclusion is sought to be deduced, although consistent with that theory, are equally consistent with some other theory, they do not support the theory contended for."

This Court says, without any support for it in the record, that the filing of the complaint against Mrs. Mehlin "may have been initiated by something that transpired after Mrs. Mehlin had reached California." The complaint was made by Mr. Mehlin *before* he even knew where his wife had gone (Tr. p. 129 and 133).

We can only reiterate what we have said in our brief, that this is not a case of conflicting evidence at all. There was no evidence of permission given to Claggett. Statements made were later explained by uncontradicted facts which had the effect of completely dispelling, as a matter of law, any contrary inferences, assumptions and admissions. It seems to us that this Court has completely ignored the effect of the decision by the Supreme Court of California in *Engstrom v. Auburn Motors,* 11 Cal. (2d) 64. In fact, *the Court has not even mentioned that decision.* Certainly that case involves testimony by interested parties, and it involves an even stronger situation of an initial grant of permission.

It is respectfully submitted that a rehearing should be granted in order to correct some rather serious misapplications of legal principles and in order to make the opinion of this court conform to the California cases and other well-reasoned decisions.

Dated: January 10, 1951.

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CERTIFICATE OF COUNSEL

In my judgment the foregoing petition for rehearing is well founded. I hereby certify that it is not interposed for delay.

LEIGHTON M. BLEDSOE